

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

UNITED STATES OF AMERICA

VS.

CRIMINAL NO. 3:00CR5TSL

ROY LEE JOHNSON, JR.

ORDER

This cause is before the court on the pro se motion of defendant Roy Lee Johnson, Jr. for a reduction in sentence to 18 U.S.C. § 3582(c) (2).

On September 1, 2000, the court sentenced Johnson, who had pled guilty to conspiracy to distribute cocaine base, to an 87-month term of imprisonment, to be followed by four years of supervised release. Johnson completed his term of imprisonment and was released to commence the service of his term of supervised release. Thereafter, on March 14, 2008, having found defendant in violation of the terms of his supervised release, the court sentenced defendant to ten months' imprisonment. On May 6, 2008, defendant filed this motion for a reduction in sentence based on the recent amendments to the sentencing guidelines regarding cocaine base.

Under 18 U.S.C. § 3582(c) (2), the court may resentence a defendant if the defendant was sentenced based on a sentencing range that has subsequently been reduced by an amendment to the Sentencing Guidelines and certain other criteria are satisfied.

This being said, any reduction must be consistent with the pertinent policy statement. Here, the relevant policy statement, USSG § 1B1.1, provides as follows: "Only a term of imprisonment imposed as part of the original sentence is authorized to be reduced under this section. This section does not authorize a reduction in the term of imprisonment imposed upon revocation of supervised release." USSG § 1B1.1 app. n. 4(A). Accordingly, as a reduction of the term of imprisonment imposed upon revocation of supervised release would be inconsistent with the applicable policy statement, defendant is entitled to no relief, and his motion is due to be denied.

It is ordered that the motion for reduction pursuant to 18 U.S.C. § 3582(c) (2) is denied.

SO ORDERED, this the 14th day of October, 2008.

/s/Tom S. Lee
UNITED STATES DISTRICT JUDGE